



Written comment on the Market Study into the retail fuel sector – Draft Report

1. Waitomo Group

[Waitomo Group](#) is a 100-percent family-owned and operated independent Kiwi fuel company, based in Hamilton. Started in Te Kuiti in 1947 by Desmond Ormsby, we have now grown to be one of New Zealand's largest independent fuel suppliers, with around 65 Fuel Stops between Paihia and central Wellington. We are market disruptors – and our business is 100-percent focused on providing more competition and choice, and lower fuel prices, to Kiwis wherever we operate.

Waitomo also operates a substantial commercial fuel business, servicing local businesses, agricultural contractors, roading and civil engineering contractors, forestry crews, workshops, quarries and farms. As well as supplying petrol, diesel, lubricants and solvents, we offer bulk fuel supply, onsite diesel supply and fuel and oil storage solutions. Our fuel is currently supplied by Mobil, as part of a long-standing supply arrangement.

Seventy years on, we're proud to be serving our Kiwi customers with the same formula we always have – great people, top performance and a fairer price for fuel.

2. Summary comments:

2.1 Waitomo is participating openly in the Commerce Commission's Market Study into the retail fuel sector.

2.2 The draft report has provided some valuable insight into how the retail and wholesale fuel markets in New Zealand are currently operating. If the Market Study delivers greater transparency for Kiwis around fuel pricing, and how the sector operates, we see that as a positive outcome.

2.3 Consideration should be given to the cost and capacity impacts of the Market Study on small, lean operators like us. We're able to offer Kiwis low-cost fuel because we don't have a big head office supporting us with administration, analysis and paperwork.

2.4 Waitomo's view is that the New Zealand fuel market is competitive in some market segments and some regions, but is less so in others. The level of competition is relative to the capability and the resources available to the participants in the market. Even as a 70-year old Kiwi business, we've shown we can disrupt the market in a sustainable way, by offering quality fuel to a segment of the market who are price-sensitive and want a quick and convenient fueling experience. If customers have choice, and the barriers to entry are not too high, then the market can work effectively.



2.5 Our own business is in rapid expansion mode, and we will open our 7th site this year in mid-September. Another three - including our first South Island site in Christchurch – are in development, and we also have several sites in the pipeline awaiting resource consent.

2.6 Whenever we expand into new areas (such as Wellington), we deliver much-needed competition and choice to consumers. We disagree that the impact of smaller operators like us on retail prices where we operate has been “limited”. For example – following our entry into Upper Hutt, prices have dropped by up to 20 cents a litre across all brands. That’s savings that go directly back into Kiwis pockets and the local economy.

2.7 Our view is that, over time, the continued expansion of low-cost distributors like Waitomo, and others such as NPD, will deliver the much-needed price competition and choice consumers want, especially in areas like Wellington and the South Island where motorists are generally paying much more for fuel than the rest of New Zealand. As competition intensifies in these areas, pricing will react accordingly, and consumers will have greater choice about where, and at what price, they buy their fuel. As a result, regional pricing variation will also be eliminated, or at least reduce.

2.8 Waitomo welcomes initiatives that increase competition in the wholesale fuel market. Greater contractual freedom and pricing transparency would give resellers like us the option to test the wider wholesale market, if we choose to do so. That’s the true test of competitiveness. If we can pay a lower wholesale price for our product, those savings will be reflected in the pump price paid by our customers and in our continued investment in the New Zealand retail fuel sector, which means more competition and choice for Kiwis.

2.9 Like other resellers, Waitomo is dependent on the majors (currently Mobil) for our fuel supply. These majors are also our direct competitors in the retail fuel market and the wholesale fuel market. A particular concern for Waitomo is whether the wholesale market will respond competitively when long-standing supply contracts like ours come up for renewal. Without significant competition in the wholesale market, there is a risk that the majors could set their wholesale price at a level where it is unfeasible for Waitomo to operate. This would have the effect of shutting out low-cost resellers like Waitomo from both the retail and wholesale markets. Waitomo supports our supplier (Mobil), and the other fuel importers, achieving fair and reasonable returns on their terminalling assets, along with the cost recovery on supply and distribution. However, the pricing offered to Waitomo should reflect parity at the terminal gate with the majors i.e., not a premium or differentiated price because Waitomo is competing against the fuel importers in the retail and wholesale markets. Without this protection, there is a risk to resellers like Waitomo that the importers might engage in anti-competitive behavior.

2.10 Access to supply in Wellington and the South Island is not a barrier to entry for us.



The only thing slowing us down is finding suitable locations for our Fuel Stops, and then working our way through the often-onerous planning and consenting processes. The RMA and other local body consenting requirements/land use restrictions add significant cost and time to our business when entering new markets. This can severely restrict our expansion plans, and impact on our development times, slowing down the additional competition and choice bring to the market.

2.11 We share the Commerce Commission's concerns about the "prolific" discounting schemes operating in the market, especially 'bait advertising'. As the Commerce Commission points out, loyalty schemes are a poor substitute for genuine upfront price competition. Waitomo doesn't operate any discounting schemes – we offer the same everyday low Waitomo price no matter where our sites are located. That's the lowest price we can deliver, while still ensuring our business is sustainable. We believe this is more transparent, less discriminatory, and there are no strings attached.

2.12 As the Market Study notes, fuel is an essential purchase for many Kiwis, making up a significant proportion of household and company costs. Taxes and other levies in New Zealand account for roughly 97 cents a litre of the pump price. Fuel taxes are regressive, having the biggest impact on Kiwis that can least afford it. If there is genuine concern about whether New Zealanders are getting a fair deal at the pump, this is something that should be considered too (although we acknowledge it is outside the scope of the current Market Study).

3. Specific feedback on points raised in the Draft Report:

x43.1 – Fuel companies appear to have been making persistently high profits over the last decade.

Our own financials do not reflect the figures provided by the Commerce Commission. We request more clarity and insight into how these figures were developed, so we can assess their validity and/or provide more detailed insight into the true picture. Any such analysis must consider all the different components (retail and commercial) of our business. It is both unfair and misleading to 'cherry pick' the profitability of different segments of a business, without considering the profitability of our business overall.

Any measures to place caps on return on investment (ROI) or regulate or monitor ROI would have a significant impact on our future investment decisions i.e., we would have to consider whether opening more sites in new areas was a valid investment decision. That would ultimately impact competition and choice in the retail fuel market.

Running our business is not without risk. If we can run and operate our business efficiently and sustainably, while still delivering fairer fuel prices for Kiwis, we are operating a successful business.



X43.2 – Regional differences in retail fuel prices are not all explained by cost differences.

Regional variations in fuel prices will be eroded as more low-cost distributors like Waitomo enter the market. Wherever we open new sites where competition was previously limited to the majors (Z Energy, BP and Mobil), we've seen a significant impact on local prices. For example – following our entry into Upper Hutt, prices have dropped by up to 20 cents a litre across all brands. That's savings that go directly back into Kiwis' pockets and the local economy.

In regions where there is more intense competition (e.g., the Waikato, Bay of Plenty and Auckland, where Waitomo has a significant number of sites) prices across all brands are much more competitive. How well we can compete, and how successful we are in those markets, depends on how well we run our business, how effective we are at keeping our costs down, and whether we can pay a competitive wholesale price for our fuel.

We expect similar impacts (i.e., prices flattening out) as we continue to expand our presence in Wellington, with the opening of our third Wellington site in Johnsonville in mid-September. The South Island will also benefit from new low-cost operators entering the market, which will be made even more feasible with Timaru Oil Services Limited's (TOSL) expansion into the South Island market. Access to supply is not a barrier to Waitomo entering the South Island market, as we're contracted to Mobil for supply. We will open our first South Island site in Christchurch later this year, and we have a number of other sites in the development pipeline.

X43.3 – Discounting does not compensate for higher pump prices.

Waitomo shares the Commerce Commission's concerns about discounting and loyalty schemes, which are a prominent feature in the New Zealand retail market. We believe these schemes are distorting and confusing. We are particularly concerned about 'bait advertising' on price boards, which shows the discounted price of fuel. Waitomo views this kind of bait advertising as unfair and misleading to consumers, as the advertised discounted price comes with terms and conditions that cannot be communicated on a price board. We feel that this is a deliberate ploy by our competitors to lure customers into their sites and onto their forecourts. The Australian Competition and Consumer Commission has investigated this issue in detail, and now many Australian states, including Queensland, South Australia and Victoria, have banned discounted fuel prices from being displayed on price boards. The New Zealand Commerce Commission should follow their lead.

We offer customers the same everyday low Waitomo price at all our sites, no matter where they are located regionally (the exception being Auckland where the regional fuel tax applies). In our view, this is more transparent and fairer to Kiwis, as it doesn't discriminate or come with strings attached based on buyer behaviour and/or loyalty programmes. Everyone pays the same Waitomo price, no matter where they're located, and we don't require them to do anything to benefit from our lower price.



X43.4 – There is an increasing price difference between regular and premium petrol.

Premium petrol (Unleaded 95) makes up a small proportion of Waitomo’s retail volume.

Waitomo has a set differential. Our 95 price is the same at all our sites and we are open and transparent about this pricing on our pumps, and via the price comparison app Gaspoly.

Our price boards do not show our 95 price. This is because adding this information to our price boards would incur significant cost. We don’t consider adding 95 pricing to the price boards as necessary, as our 95 price is clearly displayed on the pump and is also easily available via the price comparison app Gaspoly. We consider a requirement to make 95 pricing visible on price boards as a waste of time i.e., noise, and that there are much more important issues in the retail and wholesale fuel markets that need to be addressed.

X78 – The market observations outlined above are largely symptoms of issues further up the supply chain i.e. the wholesale market.

The Market Study’s Draft Report supports Waitomo’s own analysis of the New Zealand wholesale fuel market. We welcome this increased transparency.

Historical relationships and long-standing joint venture (JV) arrangements have previously limited the ability of resellers like us to switch between wholesale suppliers. However, we acknowledge that these long-standing arrangements have also provided benefits, such as security of supply, which is important to our customers and to our own business continuity.

We’d welcome initiatives that increase competition in wholesale fuel market. Greater contractual freedom would give resellers like us the option to test the wider wholesale market, if we choose to do so – and that’s the true test of competitiveness. If we can pay a lower wholesale price for our product, those savings will be reflected in the pump price paid by our customers and in our continued investment in the New Zealand retail fuel sector, which means more competition and choice.

Waitomo’s own analysis supports the Commerce Commission’s finding that “large commercial customers’ contracts typically contain more transparent, forward-looking MOPS-based pricing terms” and that these contracts are often entered into for much shorter terms than distributor/reseller contracts like ours.

Our own analysis also supports the view that some of the majors appear to be earning much higher margins on sales to distributors/resellers like Waitomo, than similar-sized large commercial customers, even when the volumes bought by distributors/resellers would be much greater. Further, we share the Commerce Commission’s concerns that some wholesalers in the market



appear to be earning higher margins on petrol sales than on diesel, because this product is being sold in greater volumes to the commercial market and, therefore, is more competitively priced.

A particular concern for Waitomo is whether the wholesale market will respond competitively when long-standing supply contracts like ours come up for renewal. As the Market Study interim report notes “an active wholesale market does not exist in New Zealand” which limits resellers’ ability to switch suppliers. Like other resellers, Waitomo is dependent on the majors (currently Mobil) for our fuel supply. These majors are also our direct competitors in the retail fuel market.

Without significant competition in the wholesale market, there is a risk that the majors could set their wholesale price at a level where it is unfeasible for Waitomo to operate, in order to shut low-cost distributors like us out of the retail market and limit our penetration into the wholesale market. This kind of behaviour could only be regarded as anti-competitive.

Entry into the wholesale market by TOSL and other importers might reduce this risk to some degree by offering alternative supply options to resellers and more competition in the wholesale market – an outcome we’d welcome.

X105 – Established relationships between the majors and their resellers appears to be reinforcing barriers to switching suppliers.

Waitomo rejects the assumption that we would not consider other wholesale suppliers because of some sort of perceived ‘cozy relationship’ with our current supplier, Mobil.

Although Mobil have been our suppliers for the duration of our business, we are competitors. We have our own retail brand, identity and assets to “decouple” ourselves from Mobil, except as a wholesale supplier. The location of Mobil sites has no impact on where we operate existing sites, nor does it factor into our investment criteria and decisions when considering new sites. We operate a number of sites in the same areas as Mobil and treat them as competitors like any other major or reseller, e.g., we have sites in close proximity to Mobil in Cambridge, Foxton, Bulls, Upper Hutt, Epsom and central Hamilton.

We also reject any assumption that the selection criteria used to determine where we will set up news sites is in any way influenced by needing access to their Mobil fuel card. We have our own Waitomo Fuel Card that is accepted at all our sites, and we have only a very small number of Mobilcard-accepting sites in our Waitomo network.

X126.4 – Requiring better information be collected from the industry and retained in New Zealand to assist in future market analysis.



Consideration should be given to the cost and capacity impacts of this requirement on small, lean operators like us. We're able to offer Kiwis low-cost fuel because we don't have a big head office supporting us with administration, analysis and paperwork like the majors do. Any additional administrative/data requirements will add unnecessary cost and complexity to our privately-owned business, which will have a flow-on negative effect on the price of fuel we can offer Kiwis at the pump.

4. In summary

Waitomo would welcome the opportunity to participate in the consultation conference on the Market Study later this month. If further information on any of the points raised in this submission would assist the Commerce Commission in their inquiry, in the interests of openness and transparency, we will consider these requests.

However, it should be noted that Waitomo is bound by a comprehensive confidentiality agreement with our current wholesale supplier, Mobil, to protect any information received pursuant to our distribution agreement. This would include any information on pricing, margin or other information disclosed in respect of Mobil's supply of fuel to Waitomo.

5. Waitomo Group contacts

Jimmy Ormsby – Managing Director

P: 027 471 5995

E: jimmy@waitomogroup.co.nz

Simon Parham – Chief Operating Officer

P: 0272 808 918

E: simonp@waitomogroup.co.nz